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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,010	04/11/2001	Richard A. Smith	20-464	9656

7590 05/21/2003

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Washington, DC 20036-3307

EXAMINER

TRAN, PABLO N

ART UNIT	PAPER NUMBER
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2685

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DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/832,010

Applicant(s)

SMITH ET AL.

Examiner

Pablo N Tran

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 7-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 17-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- ☐ Interview Summary (PTO-413) Paper No(s). _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 17, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Gossman et al.* (6,181,935) in view of *Chandra et al.* (6,058,389).

As per claims 1, 17, and 23, *Gossman et al.* disclosed a message distribution center interposed between a source of a short message and a wireless network including an intended recipient of said short message wherein the message distribution center (fig. 1, 6) comprises an SMTP protocol (col. 12/ln. 37-43, col. 8/ln. 36-41) communication channel to receive said short message from said source of said short message (fig. 1/no. 6, fig. 6/no. 6) and a communication channel to communicate said short message to said wireless network (col. 6/ln. 22-36, col. 10/ln. 4-14).

Gossman et al. disclosed such stored short message but do not specifically disclosed said stored SMS messages being place in a plurality of subscriber queues. *Chandra et al.* disclosed such plurality of subscriber message queues (col. 12/ln. 22-23). Therefore, it would have been obvious to one of ordinary skill in the art to provide a plurality of subscriber message queues as discussed in *Chandra et al.* to the SMS

message distribution center of *Gossman et al.*, in order to provide data transmission allocation to the user depending upon forecast need.

3. Claims 1-3, 5-6, 17-19, 21-25, and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Gossman et al.* (6,181,935) in view of *Foore et al.* (6,542,481).

As per claims 1, 17, and 23, *Gossman et al.* disclosed a message distribution center interposed between a source of a short message and a wireless network including an intended recipient of said short message wherein the message distribution center (fig. 1, 6) comprises an SMTP protocol (col. 12/ln. 37-43, col. 8/ln. 36-41) communication channel to receive said short message from said source of said short message (fig. 1/no. 6, fig. 6/no. 6) and a communication channel to communicate said short message to said wireless network (col. 6/ln. 22-36, col. 10/ln. 4-14).

Gossman et al. disclosed such stored short message but do not specifically disclosed said stored SMS messages being place in a plurality of subscriber queues. *Foore et al.* disclosed such plurality of subscriber message queues (claim 1). Therefore, it would have been obvious to one of ordinary skill in the art to provide a plurality of subscriber message queues as discussed in *Foore et al.* to the SMS message distribution center of *Gossman et al.*, in order to provide data transmission allocation to the user depending upon forecast need.

As per claims 2-3, 18-19, and 24-25, the modified system of *Gossman et al.* disclosed such standard TCP/IP communication protocol but does not specifically disclose such RMI or SMPP protocols. However, such is well known in the art that the examiner takes Official Notice of such. Therefore, it would have been obvious to one of

ordinary skill in the art to modify and apply such RMI or SMPP protocols, well known, to the communication protocols of the modified system of *Gossman et al.*, in order to provide any such standard protocol configurations for exchanging data to be implemented on the existing communication system to save cost.

As per claims 5, 21, and 27, the modified system of *Gossman et al.* disclosed plurality of queues thresholds but do not specifically disclosed a predetermined maximum number of short message in each of said plurality of subscriber queues. However, such is well known in the art that the examiner takes Official Notice of such. Therefore, it would have been obvious to one of ordinary skill in the art to modify and apply a maximum number of messages in a queue for a subscriber, well known, to the modified system of *Gossman et al.* in order to provide queue capacity control.

As per claims 6, 22, and 28, *Gossman et al.* disclosed said wireless is a wireless intelligent network (WIN) (fig. 1).

4. Claims 4, 20, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Gossman et al.* (6,181,935) in view of *Foore et al.* (6,542,481) and further in view of *Couts et al.* (5,974,054).

As per claims 4, 20, and 26, the modified system of *Gossman et al.*, as claimed in claim 1, do not disclosed such FIFO message queues. However, such FIFO message queues are well known in the art, as disclosed in *Couts et al.* (see fig. 1/no. 212). Therefore, it would have been obvious to one of ordinary skill in the art to provide the teaching of FIFO message queues as discussed in *Couts et al.* to the modified system of *Gossman et al.* to maintain a correct transmission order for numbered messages.

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dalal (6,321,093) and Laybourn et al. (6,480,710) disclose method for providing short message to mobile device in a communication system.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pablo Tran whose telephone number is (703)308-7941. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (703)305-4385.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

**PABLO N. TRAN
PATENT EXAMINER**


A02685

May 18, 2003